

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 70 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

SARASPUR MILLS LIMITED

Appearance:

MR M.J. THAKORE, instructed by
MR MANISH R BHATT for Petitioner
SERVED BY RPAD for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

Date of decision: 05/02/97

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The Income Tax Appellate Tribunal, Ahmedabad has referred for the opinion of this Court the following question under Section 256(1) of the Income Tax Act.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in allowing extra shift allowance on exhaust fans notwithstanding the fact that item III(iv) of the Appendix I of the I.T Rules, 1962 specifying rates of depreciation specifically excluded fan installation from extra shift allowance?"

Identical question had arisen before this Court in the case of CIT Vs. Saraspur Mills Ltd. - I.T.R No.27 of 1984 and in our decision rendered today, it has been held that no extra shift allowance was allowable on exhaust fans in view of item III(iv) of Appendix I of the I.T Rules, 1962 specifically excluding fan installation from extra shift allowance. For the same reasons as are given for answering the identical question in I.T.R No.27/1984, we are of the opinion that the Tribunal had committed an error in holding that extra shift allowance on exhaust fans could be allowed. The question referred to us is therefore, answered in the negative in favour of the revenue and against the assessee.
